BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
The Cable Communications Policy Act) MB Docket No. 05-311
Of 1984 as Amended by the Cable)
Television Consumer Protection and)
Competition Act of 1992)

COMMENTS FROM CONSUMERS FIRST

Consumers First, Inc., is a consumer education and advocacy organization that represents the interests of diverse consumer groups. Consumers First works with consumer activists, community leaders, small businesses, senior citizens, people with disabilities, minorities, and rural stakeholders to make and advocate for sound public policy. Our broad-based, grassroots association is proud to be a member organization of the Consumers for Cable Choice (C4CC). C4CC is an alliance of consumer organizations with members throughout the United States who are committed to the development of a competitive, vibrant cable communications market. The goal is the creation of an open, diverse, pro-consumer market for cable subscribers that will stimulate price, choice and service options.

The current local monopolies plaguing the video services delivery industry are leaving consumers across America with little choice in content, poor customer service, and high cable rates. Increased competition is the answer to all of these cable consumer problems. These comments will demonstrate:

- How cable prices continue to increase beyond the rate of inflation despite offering no corresponding benefits to the consumer;
- How a healthy and competitive video service provider market would save consumers money and improve consumer cable choices;
- How innovations that are currently technically available are not practically available due to oppressive and old-fashioned regulations;
- How streamlining the franchising approval process will promote the competitive cable market that consumers demand and deserve.

Cable prices are too high and continuously growing, despite the lack of increased programming and service provisions, because the cable industry is not being stabilized by meaningful competition.

The cable monopoly for video services has resulted in a steady price increase for consumers every year. An August 2003 report by the U.S. Public Interest Research Group (US PIRG) found that "Since enactment of the 1996 Act that deregulated cable rates, consumer cable prices have been rising at three times the rate of inflation and even faster for basic and expanded basic service, which is the choice of the overwhelming majority of cable subscribers. These rates have risen by more than 50 percent."[1] Even this year, 2006, the prices of cable continue to rise. According to a December 1, 2005, *Wall Street Journal* article, "Most Cable-TV bills will continue to climb next year, with Comcast Corp., the country's largest cable operator, leading the way with a 6% increase for its most popular service."[2] In 2002, the FCC reported to Congress that cable prices rose more than five times faster than inflation. "The cable industry has risen to new heights in their apparent willingness and ability to gouge the American consumer," said Senate Commerce Committee chairman John R. McCain after reading the report in 2002.[3]

Despite these striking price increases, there has not been a commensurate increase in channel choice. The average number of channels on basic and expanded basic has only increased by an average of 4.1% in 2003, and by an average of 6.3% for the five year period July 1998-January 2004.[4] Furthermore, rising costs do not explain, or in any way correspond to cable price increases, as the increases far exceed costs and sales of advanced services such as digital cable and high speed internet are said to pay for themselves.[5] Consumers do not have the power to demand more services and programming for less money without an alternative provider to turn to that will compete for their business. Policymakers must assist consumers by enabling timely entry of meaningful competition to the video services market.

<u>Competition for video services would save consumers billions of dollars and improve the quality and innovation of those services.</u>

Increased competition for video services will provide consumers with tremendous savings, both per individual household and cumulatively as a purchasing market. According to a February, 2004, Consumers Union and Consumer Federation of America report, the cost to consumers of the abuse of market power by cable

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[1] U.S. PIRG Report, "The Failure Of Cable Deregulation: A Blueprint For Creating A Competitive, Pro-Consumer Cable Television Marketplace," August, 2003. http://uspirg.org/uspirg.asp?id2=10531&id3=USPIRG

[2] Wall Street Journal, "Cable Rates to Increase as Much as 6%," December 1, 2005.

[3] Newsday, "The Fable of Cable," March27, 2005.

[4] Federal Communications Commission, *Report on Cable Industry Prices,* In the Matter of Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992, Statistical Report on Average Rates for Basic Service, Cable Programming Service and Equipment. MM Docket No, 92-266, February 4, 2005. Pg. 3.

[5] Id.

providers is between $4.5 and $6 billion based on the fact that 98% of cable subscribers lack head-to-head competition.[6]

Looking at the local level example of Keller, Texas, where cable competition was recently brought in when Verizon secured a franchising agreement and was able to offer video, we can see exactly how outstanding the benefits of competition are for consumers. According to the Tampa Tribune, "Verizon said its main package of digital cable service will include 180 channels of television and music for $39.95 per month. A similar Bright House Network's digital cable package of 175 television and music channels is $58.45 per month."[7] This is a price difference of $18.50 per month per subscriber. A typical household could save $222 per year.
Other geographic areas have experienced the technological benefits of competition when Verizon has announced their competitive efforts. CNet News noted how, "a broadband speed war is emerging as cable operators raise data rates in regions where Verizon Communications is selling its Fios fiber-to-the-home service."[8] This means that where there is competition, providers are offering higher data upload and download speeds for lower prices. Policymakers must act to make these consumer benefits the norm, rather than the exception.

<u>Innovative competition is technically available, but being stifled to the detriment of consumers by outdated regulations.</u>

Local franchising negotiations, which can take months or even years, are impairing the deployment of cable competition. Local authorities require these franchise licenses before video service can be offered, but securing thousands of licenses could take years, while consumers will have to continue to pay monopoly-thriving rates. The franchising process was once a necessary step to ensure cities could protect their constituencies. Unfortunately, the process is now being used by big cable corporations as a barrier to deter competitive entry into the marketplace. The FCC should take steps towards a solution that will allow the American public the protections they once sought in a local agreement without the overly burdensome process.

Streamlining the franchising process is the practical and pro-consumer solution to increasing cable competition. Policymakers must do what they can to provide franchising relief and expedite this process, so as to bring the relief to the people that the franchise agreements serve and protect. The FCC has the authority per §621 of the Communications Act of 1934 to ensure that local franchising authorities do not unreasonably refuse competitive franchises and has the responsibility to act on that where necessary.

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[6] http://www.consumerfed.org/pdfs/mpcableindustry.pdf
[7] Tampa Tribune, "Verizon's Deal With County Could Start Cable TV War," January 26, 2006.
[8] http://news.com.com/Broadband+speed+war+emerges/2100-1034_3-5772136.html

Great strides have been made in video delivery, access and content. Consumers should not continue to pay ever increasing cable rates while policymakers slowly attempt to catch up with technology. By considering statewide and nationwide franchises as an alternative to those offered at the local level, consumers will get the prices and choices they demand, localities can still serve to protect their constituencies and collect franchise fees, and Big Cable will no longer remain a monopoly provider.

<u>Conclusion: Simplifying the franchising process will allow for a flourishing and competitive cable market that will benefit consumers everywhere.</u>
It is time for fair and functional policies to let new technology bring cable choice to consumers who have been overpaying and getting underserved for too long. Consumers First has a long record of fighting for consumers rights, and is proud to advocate for unlocking the door to impartial and robust cable competition. Increased competition for video services is good for consumers and will provide individuals and families far more service and choices at much better rates.

We ask that the FCC take the steps necessary to remove the barriers to video competition. Consumers everywhere will thank you.

Respectfully submitted,

Consumers First, Inc.

By: Jim Conran
President

February 13, 2006